

Foster Funeral Home & Crematory
216 Project Drive - St. Ignatius, Montana 59865

(406) 745-6789 * (866) 745-2121 Toll Free * Fax line (406,

Oct. 4, 2011

Members of the Economics Affairs Committee;

Thank you for your time. I have reviewed your material on your website in regards to the "sunset" of the Board of Morticians. I feel that in much the same manner that state of Colorado has used Sunset legislation so too should the State of Montana.

My name is Ralph Foster and I have been a licensed mortician for over 25 years. As one of the few Native American morticians that I know of, my wife and I own and operate Foster Funeral Home & Crematory, Inc. which is incorporated under the Salish & Kootenai Tribes. Inc in St. Ignatius.

While licensing would and could remain, I can assure you that the Board of Morticians needs to be dissolved. Its purpose is to serve and protect the public but it instead chooses to pursue protectionism and enforce their interpretation of rules and regulations to assist themselves and their friends in their business ventures. Their time has come and passed.

The employee is now protected by OSHA, the consumer is now protected by the Federal Trade Commission and Public Health is protected by the Montana Dept of Health and its rules. The Board is a duplication that could be dissolved. By the simple granting of a license to individuals who have successfully passed the National Funeral Boards Licensing Exam by the Montana Dept of Health, the statutes of this state would be adequately covered in regards to their licensing issues and duplication could be avoided.

I have experienced direct discrimination on numerous times from the board. This has interfered with my ability to conduct business, making a livelihood for myself and family and providing financial security for family and business. This still occurring from some of the members.

I find it ironic that the present board members have on several occasions informed us that I can only serve Native American families thus being in violation of the Federal laws that state I may not discriminate based upon race, religion etc... In our instance, our firm was established in 1999 and because of pending complaints by competitors the board clarified the extent of their jurisdiction in relationship to our firm, its employees and my licensure in January 2000. The board of 2000 was fair and impartial. However, since that the time the board has changed and so has their practices.

For example in 2006, my family and I pursued a business venture in Browning. In the fall of 2006, at the request of friend of the President of the Board a clarification was requested to establish what I could and could not do. At the January 2007 board meeting the board attorney, Mike McCabe, specifically told the members of the board to not comment as they could held liable for setting precedent and clearly proceeded with the interpretation that had been brought forth in January 2000.

However, by October of 2007 complaints and actions initiated by a former competitor (former MFDA president William "Gig" Riddle) were brought before the board that the board knew they could not act on because of this "Clarification". Rather than dismissing

these complaints as they clearly lacked jurisdiction the Board chose to act on them in the spring of 2008.

At this time the Board President, head of the screening panel and fellow former MFDA officer and friend of Gig Riddle, Dick Brown informed me by conference telephone call that unless I sold my interests in Browning that I would lose my license to practice in Montana. This was witnessed by Arleen Adams and the attorney for the screening panel, Don Harris, as well as the then screening panel. These complaints were later dismissed due to lack of jurisdiction but not until the damage was done and an attorney, Eldena BearDon'tWalk, was retained to handle further matters.

I guess what my former employer, Harlow Kneeland, taught me is correct. It does not matter if you have a license just make sure you have a good attorney. He did not have one for over 40 years and the board left him alone because of his legal representation.

Later more complaints were brought forward by my competitors on the Flathead Reservation. One of these competitors has a brother and business partner on the board. It was found that merit was lacking to proceed with these complaints. All have been dismissed or tabled for what I can only assume is the hope of being able to proceed with them.

In my opinion, I can only assume that my attorney's assurance of a discrimination lawsuit based upon their actions and comments are what have kept this from happening. To this day, the Board President refuses our request for the ^{minutes} of these meetings as he has determined that he would not to wish them to be public and waive his right to privacy. While he may have thought he was making a joke both my attorney and myself found these comments offensive. For example, he made the statement that in regards to family that on the Reservation everyone is related to each other so there shouldn't be family exemptions as law provides. But I digress. However, still no complaint has been filed against me in regards to these matters by the public, who the Board was meant to serve.

The Boards actions and remarks (threats of non-licensure) have instead caused my wife and me to incur over \$6,000.00 in attorney fees. We have sold our interest in the firm in Browning to maintain my professional license, to ill-prepared buyers who have since caused us to lose even more monies in a civil suit (\$276,000.00) and left us nothing for our hard work and time.

In fact, my wife and I still can't sell the balance of the business in Browning because now the Blackfeet Council wants businesses to comply with State of Montana Rules. However, according to the Blackfeet Business License office, the State keeps telling the Council that they can't issue a license on the Reservation. Effectively assuring that no firm will return to Browning and we will never be able to establish a new owner for the firm that could exist there.

One would think that the members and their agenda has had their fill by now, and let this matter drop as all I want is to be left alone. However, certain members of the board have also insisted that I also be unemployable in the event that I wish to work for another firm and train an apprentice. This was evident when just last month the board/and or its agents struck my sponsorship of an incoming apprenticeship form. This forced a close friend, business owner and recently widowed graduate of mortuary school to employ at a greater cost an individual to work under if she hopes to receive her license.

The Boards actions have also caused us to intentionally unlicense our firm in St. Ignatius. Since that time there have been no problems, no complaints and all Federal and Tribal rules have been followed. More interestingly, the Boards actions have showed how the effect of "Sunsetting" has no effect as we are now an example of it.

Once again, Imn lecht (thank you) for your time and understanding in helping rid us of what would be considered a bad business and definitely a bad investment in our future.

Respectfully,

 

Ralph Foster & Phyllis Haynes